

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

PHILIP BENHAM,

Plaintiff,

vs.

**CITY OF JACKSON, MISSISSIPPI,
and JAMES E. DAVIS, in his official
capacity as Chief of Police for Jackson
Police Department**

Defendants.

CIVIL ACTION NO:
3:19-cv-00911-HTW-LRA

**MOTION FOR PRELIMINARY
INJUNCTION**

COMES NOW Plaintiff Philip Benham, pursuant to Fed. R. Civ. P. 65(a), and respectfully moves this Court for a preliminary injunction enjoining Defendants City of Jackson, Mississippi, and James E. Davis, in his official capacity as Chief of Police for Jackson Police Department, their agents, servants, employees, attorneys, and all persons and entities in active concert or participation with them, directly or indirectly, from applying and enforcing Jackson Code of Ordinance § 86-401, *et. seq.* entitled “Prohibiting Certain Activities Near Health Care Facilities” so as to bar protected expression on public ways in the City of Jackson.

In the absence of a preliminary injunction, Benham will suffer irreparable harm, specifically, he will lose rights and freedoms guaranteed by the United States Constitution. In support of his Motion, Benham relies on the following:

- A. Affidavit of Philip Benham, attached as Exhibit “A”;
- B. Google Map of overhead satellite shot of Jackson Women’s Health Organization and surrounding areas, downloaded from <https://www.google.com/maps/place/Jackson,+MS/@32.3345519,->

90.1771535,73m/data=!3m1!1e3!4m5!3m4!1s0x86282b7f90741b21:0x713cde441f038a0!8m2!3d32.2987573!4d-90.1848103, a true and correct copy attached as Exhibit “B”;

- C. Overhead map of clinic from Central Mississippi Planning & Development District’s Hinds County GIS Map Viewer, available at <https://gis2.cmpdd.org/portal/apps/webappviewer/index.html?id=d24547d9d8894da490556bfb9a778211>, a true and correct copy attached as Exhibit “C”;
- D. DVD of portion of Jackson City Council special meeting of September 26, 2019 discussing § 86-401, *et seq.*, downloaded from <https://jacksonms.swagit.com/play/09262019-617/10>, a true and correct copy attached as Exhibit “D”;
- E. DVD of portion of Jackson City Council regular meeting of October 1, 2019 of public comments on §86-401, *et seq.*, downloaded from <https://jacksonms.swagit.com/play/10012019-725/8>, a true and correct copy attached as Exhibit “E”;
- F. DVD of portion of Jackson City Council regular meeting of October 1, 2019 deliberating and passing §86-401, *et seq.*, downloaded from <https://jacksonms.swagit.com/play/10012019-725/14>, a true and correct copy attached as Exhibit “F”;
- G. Jackson Code of Ordinance § 86-401, *et seq.*, entitled “Prohibiting Certain Activities Near Health Care Facilities”, included in October 1, 2019 meeting

minutes, downloaded from <https://www.jacksonms.gov/meetings/city-council-regular-meeting-october-1-2019/#/tab-minutes>, attached as Exhibit "G";

- H. Verified Complaint of Philip Benham; and
- I. Memorandum of Law in Support of this Motion filed simultaneously with this Motion.

WHEREFORE, PREMISES CONSIDERED, Plaintiff Philip Benham respectfully requests that this Honorable Court grant his Motion for Preliminary Injunction.

Respectfully submitted,

s/ Nathan W. Kellum
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Attorney for Plaintiff Philip Benham

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing, along with the Complaint and Summons, has been/will be delivered to a process server for service on defendants, this 11th day of December, 2019.

/s/ Nathan W. Kellum
Nathan W. Kellum